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July 3, 2007

Served and Filed Electronically

Hon. George A. Yanthis
United State Magistrate Judge
Room 116
United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Dear Judge Yanthis:

Re: Steven Bello, as Administrator v. CSX Transportation, Inc., et al.
Docket No.: 07 Civ. 2931 (WP4 Yanthis)
Our File No.: 031324.00100

This Firm represents the Defendants in the above-described matter.

An Initial Scheduling Conference was scheduled for June 26, 2007. On that date, I received a telephone call from Martin Fiel, Esq. informing me that the Conference had been cancelled as you were on trial. Mr. Fiel further informed me that he informed this Honorable Court that he intended to make a Motion to Remand and as result you were going to hold the June 26, 2007 Conference in abeyance.

I write to respectfully request the Court to reconsider. I would suggest that discovery should move forward in this litigation at this time. Firstly, Mr. Fiel has been indicating that he is contemplating making this Motion for some period of time and to date the Motion has not been made. The Defendants would suggest any remand motion would be denied and in the interim discovery can be conducted. Finally, in the eventuality that remand is granted, any discovery in this case can be used in any State Court Action.

This is a case of questionable liability. Plaintiff's Decedent operated his car around an activated crossing gates that had flashing lights and bells.

There is no basis for delaying discovery in this matter at this point whether or not Plaintiff moves forward with his remand motion.

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We ask that the Initial Scheduling Conference be re-scheduled.

Thank you for your kind consideration of this request.

Very truly yours,

A handwritten signature in black ink, appearing to be "LRB", written over a horizontal line.

Lawrence R. Bailey Jr.
Partner

LRB/lrb

cc: Martin E. Fiel, Esq. (Served Electronically)